

EPISTEMIC NEGLIGENCE AT THE SEAMS OF PERMISSIBILITY:
ASSESSING EPISTEMIC INJUSTICE IN BIOETHICS

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ABSTRACT

Recent explorations of the territory between epistemology and ethics identify a distinctively *epistemic* form of injustice through which an individual can be harmed in their capacity as a knower. Starting with Miranda Fricker's important account, the growing literature on epistemic injustice has broadened our understanding of this capacity to include an individual's participation in epistemic practices of questioning, justification, communication, and evaluation of truth. Theorists challenge Fricker's account of prejudicial identity bias as the source of harm of epistemic injustice. An overarching goal for this paper is to provide a framework for ethical analysis of epistemic injustice that accounts for a broader conception of such epistemic harms. In particular, when scaling up our analysis of epistemic injustice from the level of individual transactions to the systemic level, monitoring identity prejudice fails to account for the bad cumulative effects that can result from a series of epistemically just interactions. The work of this paper begins with showing that such a narrow conception of bias in epistemic injustice obscures our ability to properly situate just epistemic practices within a normative framework. I introduce the notion of *epistemic labor* to account for the complex management of bias and argue that Fricker's concept of innocent epistemic negligence, an intuition that one may not be blameworthy for certain instances of credibility downgrading, leads to a displacement of a shared responsibility to ensure an epistemically just interaction. I identify the source of harm of epistemic injustice as the unequal burden of this labor and

argue that institutional approaches to alleviate epistemic injustice are necessary. Finally, tracking epistemic labor given a shared and pervasive risk of bias is essential in the assessment of epistemically just practices. I propose epistemic labor accountability as a framework to assess instances of epistemic injustice and use it to evaluate a dilemma in bioethics: disclosure requirements in the clinical encounter.

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*“The point I wish to make, however, can be introduced by calling to mind the fact that classificatory schemes, however theoretical their purpose, have practical consequences: nominal causes, so to speak, have real effects”-
Sellars, 1995, § 39*

INTRODUCTION

A primary aim for bioethics is to make explicit and clarify the value judgments that are implicit in public health and medical practice that are not ethically neutral. While this work is integral to decision making generally, it is especially relevant when the aim of deliberation is to come to a shared understanding amid conflicting biases and values. Further, given that bioethics assesses practices and policies relevant to human health, it involves weighing principles and values of health as well-being along with objective scientific evidence. Thus, a method for integrating ethics into decision making processes such as priority setting for health investments, or discussions of risks and benefits prior of treatment in a clinical encounter, depends on participants’ ability to correctly attribute epistemic merit and willingness to consider certain values as evidence. The goal of this analysis is to show how our understanding of epistemic injustice can serve to guide such ethical deliberations in public health and medicine.

In her book, “Epistemic Injustice: The Power and the Ethics of Knowing,” Miranda Fricker presents a distinctly epistemic form of injustice in which a

person is wronged “specifically in her capacity as a knower” (Fricker). In Fricker’s path breaking account, instances of injustice occur when a hearer unjustly downgrades a speaker’s credibility, or degrades them *qua* knower. She demarcates two forms of epistemic injustice, testimonial injustice involves one’s epistemic authority and occurs from unjust downgrading of one’s credibility, and hermeneutical injustice occurs when one lacks the necessary epistemic resources to make sense of one’s experiences. In other words, a speaker's standing as a knower, reasoner, or questioner is vulnerable to epistemic injustice when one’s trustworthiness to provide information via testimony, or capacity to engage in epistemic practices to interpret their experiences, is wrongly undermined.

Since its introduction several theorists have critiqued Fricker’s account for construing the harm of epistemic injustice as primarily contingent on instances of identity prejudice¹. In particular, attempts to account for the complexity of epistemic injustice at a structural or systemic level while maintaining the locus of harm at the level of individual interactions, suggest that this view is too narrow. While the need to be vigilant of identity prejudice when assessing credibility at the individual level is clear, factors arise at the systemic level that also influence an appropriate judgment of credibility. Importantly, since this move is

¹ Various theorists in critical social epistemology including Pohlhaus, Anderson, Medina, and Mills among others.

characterized by the significant difficulty of tracking bias, it risks tacitly justifying an individual's intuition that one may not be blameworthy for certain instances of credibility downgrading. According to Fricker the intuition results from human fallibility, a mistake of *innocent epistemic negligence*, or mere epistemic bad luck.

While we may admit to the intuition of a *blameless* wrong act, in the case of epistemic negligence it is not clear what exactly is being excused as blameless. In this thesis, I will argue that this view fails to acknowledge a pervasive risk of bias in human cognition and clouds efforts to track the cumulative effects of epistemic injustice. Finally, I introduce *epistemic labor* to account for the complex management of bias in our epistemic practices and propose a framework for evaluating the risk of epistemic injustice. This argument will proceed in the following way:

1. First, I present Fricker's foundational account of epistemic injustice and innocent epistemic negligence.
2. In order to sketch the explanatory gap that an appropriate account of the source of harm must address, I draw from Elizabeth Anderson's criticism that scaling up the object of our normative assessment from a transactional level to the structural level reveals that bad cumulative effects can result from a series of just interactions. I argue that Anderson's proposal for integration as a solution is insufficient to address the problem she highlights.
3. Third, stemming from contrasting critiques between Anderson's distributive justice approach and José Medina's proportional equality I aim to clarify in what the object of equality for epistemic injustice consists. Answering this question reveals a distinction between credibility as

epistemic merit and the resources required to attribute credibility to another. I introduce the concept of epistemic labor to account for the complexity of controlling biases underlying our epistemic practices and propose that while we do not seek equal distribution of credibility as a good, we seek equal epistemic labor as a way of reaching that good.

4. In this section, I argue that innocent epistemic negligence leads to a displacement of the responsibility to engage in equal epistemic labor. While the separation of blame and wrongdoing when faced with the difficulty of tracking epistemic labor is tempting, I offer various ways in which this separation risks insidious epistemic injustice.
5. I propose *epistemic labor accountability* as a framework for properly situating just epistemic practices within a normative framework. I show that the need for such assessment is especially salient in tracking epistemic labor in meaning making processes, such as shared decision-making or the production and distribution of epistemic resources.
6. I offer a case study that exemplifies the value of epistemic labor accountability in assessing instances of epistemic injustice in healthcare. Evaluating epistemic labor accountability gives rise to certain responsibilities both at an individual level as well as the institutional level for disclosure requirements in the clinical encounter.

Broadening our understanding of the harm of epistemic injustice allows for a comprehensive evaluation of efforts to avoid or engage in epistemic labor, the balancing of value judgments to reach an appropriate attribution of epistemic merit and epistemic authority. This framework thus serves as a lens through which a discussion of values is relevant and mutually informing for the discussion of facts. Finally, focusing on the obligations of epistemic labor accountability at a systemic level is more effective at tackling the broader conception of epistemic injustice.

I. Epistemic Injustice and Innocent epistemic negligence

Fricker's seminal account identifies two kinds of epistemic injustice: testimonial injustice and hermeneutical injustice. While testimonial injustice occurs when a speaker's credibility is downgraded as a result of an individual hearer's prejudice, hermeneutical injustice addresses the collective, or population, level. Hermeneutical injustice occurs when "a gap in collective interpretive resources puts someone at a disadvantage when it comes to making sense of their social experiences" (Fricker, p.1). Fricker's aim is to shift our ethical lens to everyday epistemic practices in which we impart knowledge to others by telling, and make sense of our own social experiences. Drawing from feminist standpoint theory, Fricker's theory of epistemic injustice understands epistemic practices as socially-situated. For her, epistemic agents are not "conceived in abstraction from relations of social power" (Fricker, p.2). While Fricker's illustration of hermeneutical injustice is structural because the hearer is part of an epistemic community that lacks the interpretative resources to be held accountable for misunderstanding the speaker, she holds that the injustice can be traced back to an initial instance of identity prejudice. While she recognizes that structural injustices result in power imbalances, all epistemic injustice is reducible to a function of identity bias at the level of the individual. Thus, social identity prejudice is what makes both forms of credibility deficit unjust.

Additionally, Fricker argues that forms of credibility deficit that are not based on such instances of identity prejudice are non-culpable because they are necessarily the result of innocent error, and thus do not constitute an injustice. She distinguishes these unlucky epistemic mistakes from instances of moral vice that cause injustice to a speaker. According to Fricker, a non-culpable false belief is one that does not occur as a result of prejudice or epistemic carelessness, and notes that instances of innocent epistemic error are inescapable due to fallible human judgment. Thus, credibility deficit is an injustice to the speaker only if it results from the harm of prejudicial moral vice (Fricker, p.21).

The example for hermeneutical injustice presented by Fricker focuses on the concept of sexual harassment before the term was widely recognized as an epistemic resource and used in society to point to instances of sexual misconduct towards women. However, Fricker contends that in instances prior to the recognition of “sexual harassment” both hearer and speaker were subject to a hermeneutical lacuna because neither of them properly understood how women experienced sexual harassment. She further recognizes that the disadvantages of hermeneutical injustice in this case are clearly more serious for the woman since there is an “obvious sense in which it suits [the man’s] purpose”. In a parenthetical explanation to this distinction Fricker adds,

Or at least it suits his purpose in that it leaves his conduct unchallenged. This is not to deny that if he is a decent person underneath, so that a better understanding of the seriousness of his

bad behavior would have led him to refrain, then the hermeneutical lacuna is for him a source of epistemic and moral bad luck (Fricker, p151).

Additionally, she refrains from identifying as hermeneutical injustice instances in which patients that suffer medical disorders that have not yet been recognized by the medical community. Such instances represent merely “*circumstantial epistemic bad luck*” (Fricker, p152).

The concept of innocent epistemic negligence, or moral bad luck, is used by Fricker to describe certain instances in which a hearer may downgrade the credibility of the speaker without it stemming from moral vice. In other words, the speaker experiences a credibility deficit that does not constitute an epistemic *injustice* because the hearer is not acting out of prejudice. Fricker notes that while in such a case the hearer was “not culpably at fault until they were in a position to know better,” and determining this point is best construed in degrees, the move from blameless to blameworthy occurs within a period of historical transition. Such a historical transition is marked by a “relevant advance in collective consciousness is needed to render the shortcoming in his epistemic conduct blameworthy” for epistemic injustice (Fricker, pg.100). The reasons put forth for the non-culpable nature of this negligence center around the seeming impracticality of expecting constant vigilance, and of the difficulty of checking

one's cognitive biases as a result of their interdependence on collective epistemic resources.

II. What is lost in the move from transactional to structural epistemic injustice?

Attempting to assess or measure how the effects of transactional relations affect relations at the societal level is very difficult to do. Theories of distributive justice, as Anderson points out, assign different criteria for evaluation to transactional and structural relations (Anderson). Transactional theories, such as libertarianism, pose criteria that aim for just interactions between two individuals and usually apply to a single transaction in isolation (locally). On the other hand, structural theories exemplified by John Rawls' Theory of Justice, pose criteria with the aim to control the cumulative effect of individual transactions by evaluating a system's global properties and imposing constraints on permissible rules (Anderson). However, in addressing the "bad cumulative effects of a series of just transactions," transactional theories fall short as

The individual practice of virtue is not up to the task of coping with the problems generated by a system of rules that regulate only the local properties of transactions and not their global effects. It is hard for individuals to acquire knowledge of who is most disadvantaged by the system, and very difficult for them to coordinate their helping efforts to maximum effect. Help will therefore tend to be maldistributed, being heaped on salient, highly publicized cases of episodic catastrophe while neglecting more

pervasive, persistent, and entrenched sources of disadvantage (Anderson, p.164).

Expecting individuals alone to effect good cumulative effects by maintaining constant vigilance of their transactions seems to be an unreasonable burden.

Anderson draws an important parallel between the properties of distributive theories of justice and epistemic justice,

Answering a complex question, or interpreting some significant phenomenon, typically requires that we elicit epistemic contributions from numerous individuals and connect them appropriately. The cumulative effects of how our epistemic system elicits, evaluates, and connects countless individual communicative acts can be unjust, even if no injustice has been committed in any particular epistemic transaction (Anderson, p.165).

Thus, just as we cannot expect that individual just transactions necessarily ensure good cumulative effects, imposing the task of epistemic justice at the individual level is too heavy a burden to control the global effects of epistemic injustice².

Anderson's parallel reveals the need for a structural intervention to control the bad cumulative effects that even *just* transactions may perpetuate. This point is crucial to being able to see how our conceptions of the relationship between transactional and structural instances of injustice may prevent us from properly addressing the problem. In other words, part of the reason that we cannot expect correcting individual instances of transactional injustice to be a solution is that as

² The claim that a good cumulative effect is just the result of individual transactions is what libertarian views hold. Just as it is open to one to be a distributive libertarian, it is open to one to be an 'epistemic' libertarian, whether because just transactions would ensure just global effects or because justice is only operative at the level of individual transactions.

individuals we are not well equipped to make sense of how these instances translate into the cumulative bad effect. We have two ways of dealing with this challenge. First, we can concede that it is futile to attribute a normative component to this process because we live in an imperfect world. Alas, according to Fricker, human judgment is fallible. Or second, we can determine what would be required to better equip individuals, as well as institutions, to make sense of the phenomenon.

More importantly, because epistemic injustice concerns the discovery, circulation, and uptake of knowledge, it inherently affects an individual's attempt at discerning which structural factors to consider in evaluating a speaker's credibility. In Fricker's view, while innocent epistemic negligence explains that a hearer is blameless without a shift in collective consciousness, it is unclear how such a shift would come about in the context of structural injustices.

Anderson holds that simply asking individuals to check their identity prejudice would be insufficient to combat the harms of epistemic injustice at a structural level. Since facing massive structural epistemic injustice demands structural remedies, Anderson argues for a reconfiguration of epistemic practices. She goes on to propose integration and diversity at the institutional level as a partial solution. Building on Anderson's valuable contribution to understanding the limitations of an individual virtue-based solution to epistemic

injustice, I seek to show what is missing from solutions that focus on integrating a diversity of views within an institution as structural remedies for epistemic justice.

III. Equality of what?

While Anderson's analysis stems from a theory of distributive justice and aims for the fair distribution of credibility as a good, both Fricker and Medina identify a different view of fairness. In particular, the value that guides epistemic injustice is not equal distribution but proportionality. A proportional model of epistemic justice aims to ensure that attributions of epistemic authority are proportionate to their epistemic merit, including epistemic capacities and assets.

We have to aspire to making our credibility judgments as proportionate to epistemic deserts and credentials as possible, avoiding disproportions that reflect and are grounded in (positive and negative) prejudices that involve the differential treatments of members of different groups. (Medina, p.22)

Thus, the harm of epistemic injustice is not the result of unequal distribution but of "disproportion". Central to Medina's proportional account is the view that credibility excess, wrongly attributing greater epistemic merit, is just as harmful as credibility deficit. In his view, credibility judgments never apply to individuals in isolation from others, but affects groups of subjects. Therefore,

bestowing unwarranted epistemic trust and authority to one group results in a deficit for another (Medina).

While both models provide valuable insight, examining the different conceptions of credibility begins to clarify important features of the source of harm of epistemic injustice. First, an appropriate attribution of epistemic authority, in a way that is proportionate to epistemic merit, is necessary for epistemically just interactions. It would be unreasonable to propose that credibility as epistemic authority ought to be redistributed by equal shares as a matter of fairness. There are many ways in which unequal epistemic authority is essential to our daily life, such as the greater credibility that is attributed surgeons, electricians, or teachers among others. On the other hand, by construing epistemic justice or credibility as a scarce good, Anderson seeks fair distribution of the *markers* of credibility for a given judgment under assessment. For example, education or the use of standardized grammar are relevant for decisions that require an educated decision. She distinguishes between the markers of credibility that are used for prejudicial compared to legitimate uses, writing:

In societies that systematically deprive disadvantaged groups access to a decent education, the use of such markers in assessing credibility will tend to exclude those groups from further participation in inquiry. An original structural injustice – denial of fair opportunities for education – generates additional structural inequalities for exercising full epistemic agency, which is an injustice to the speakers (Anderson, p.169).

Thus, in the distributive model of fairness the emphasis is on the equal distribution of access to markers of trustworthiness. While the view aims to ensure that disadvantaged groups have equal opportunity to acquire markers of credibility, it is limited to legitimate uses of credibility markers. Additionally, even though we often rely on markers of credibility to evaluate epistemic merit, it seems plausible to assess credibility without such markers. In other words, the use of markers of trustworthiness rightly captures the influence of structural injustices on individuals' capacity to participate fully in epistemic practices. This reflects the need for an account of fairness that recognizes that some groups of knowers will be more susceptible to epistemic injustice. I argue that while it is necessary to account for the structural injustices that disadvantage an agent's epistemic standing, shifting our focus on how such credibility markers are used will allow us to isolate the dimension of epistemic injustice that can be addressed even in a context of systemic oppression.

According to Anderson, legitimate use of credibility markers is determined by the absence of prejudicial bias and allows for participation in social inquiry on terms of equality with others. She identifies the segregation of groups that results from inequality as what transforms otherwise innocent biases into instances of epistemic injustice. Thus, proposing group integration to ensure equal access to markers of credibility aims to enable disadvantaged groups to "gain epistemic

favor in the eyes of the privileged” (Anderson, p.171). While group integration in shared inquiry offers a valuable approach to include diverse viewpoints and identities in the production of epistemic resources, it fails to address the way in which, in the absence of structural justice, once group integration on the basis of social identity is achieved, other groups will remain disproportionately susceptible to epistemic injustice. Even though group integration is a necessary step towards remedying epistemic injustice, it still relies on the disadvantaged individuals to correct for biases that may be outside their capacity to comprehend.

Returning to Medina’s proportional view of credibility, mere group integration as a remedy for structural epistemic injustice would seem to wrongly assume that the correcting for credibility deficit also corrects for a credibility excess that is also characteristic within systems of structural injustice. It is not a matter of bringing up the disadvantaged to the “epistemic favor” of the privileged but in committing to interdependence in epistemic inquiry, or assessment of epistemic merit. In other words, because structural injustice does not excuse the attribution of credibility excess, recognizing interdependence in seeking epistemically just interactions requires that this excess is checked, even for groups in a dominant position. Additionally, as Anderson recognizes, bias is difficult to control even after we have been made aware of it. This is demonstrated as an inability to control for implicit biases even in the face of

evidence that one is biased, such as studies on the association of negative stereotypes with certain racial identities. This point is supported in the literature stemming from feminist philosophy of science, showing that even when individuals are aware of their biases they are consistently ineffective at preventing unbiased judgments (Yap). Analogously, establishing racial integration does not guarantee that internalized forms of credibility deficit are not perpetuated. Further, or error, the risk of bias as an error in our epistemic practices is embedded throughout our decision-making process, and not solely in assessments of credibility. Moreover, as the distinction between hermeneutic and testimonial injustice blurs, it becomes increasingly difficult to track these biases.

I propose an alternative approach by reconciling the proportional and distributive views. In an aim to maintain credibility as an attribution of epistemic authority that is proportional to epistemic merit, and recognizing the need to account for the disproportionate vulnerability to epistemic injustice that results from structural inequalities, I suggest that what we seek is equal investment in the complex management of bias.

IV. Epistemic labor

While we do not seek equal distribution of credibility as a good, we seek equal epistemic labor as a way of reaching justifiable levels of credibility. I

propose the concept of epistemic labor as the epistemic processes we undertake to manage biases. The previous section outlined some of the characteristics that make cognitive biases very difficult to control independently even by well-intentioned agents. Epistemic labor, however, does not reduce to the effort of checking one's bias since it aims to combat epistemic injustice more broadly. Since the primary goal of epistemic labor is epistemic justice, the appropriate attribution of epistemic authority requires considerations of epistemic merit but also addressing inequalities in epistemic standing. The processes of epistemic labor begin with recognizing an interdependence in our understanding of the world, recognizing that contributing to epistemically just systems is a shared task. It includes; managing one's individual bias, in particular, awareness of the ways in which we may benefit from a particular credibility deficit or excess, actively seeking, developing and using epistemic resources, and adjusting for the increased epistemic vulnerability of some knowers. This effort is burdensome. Attempts to reflect and correct for biases with vigilance or by seeking epistemic resources is cognitively taxing, and consumes both time and energy. In addition, certain situations, such as a hospital emergency room, that require quick judgments, pose an additional burden to the work of epistemic labor.

Controlling for an unequal burden of epistemic labor also serves to explain the harm of testimonial and hermeneutical injustice. For example, this is evident in Fricker's primary example of Tom Robinson's trial in *To Kill a Mockingbird*,

The trial proceedings enact what is in one sense a straightforward struggle between the power of evidence and the power of racial prejudice, with the all-white jury's judgment ultimately succumbing to the latter. But the psychology is subtle, and there is a great complexity of social meanings at work in determining the jury's perception of Tom Robinson as a speaker. In a showdown between the word of a black man and that of a poor white girl ... Telling the truth here is a minefield for Tom Robinson, since if he casts aspersions on the white girl, he will be perceived as a presumptuous, lying Negro; yet, if he does not publicize Mayella Ewell's attempt to kiss him (which is what really happened), then a guilty verdict is even more nearly assured (Fricker, p.23).

The harm of epistemic injustice is not merely the result of the jury's identity prejudice down grading Tom Robinson's credibility but that he carried the entirety of the burden to ensure an epistemically just interaction. While Fricker's account identifies the role of power imbalance as central to epistemic injustice, I suggest that epistemic labor is a step in the direction of understanding how such power imbalances function in our epistemic practices.

Moreover, although testimonial and hermeneutical injustice can be conceptually distinguished, they are intimately connected and often interact in various ways. Blurring the lines between the two also shows how an account of epistemic labor allows for a more comprehensive evaluation of epistemic injustice. An account provided by Charles Mills from his work on ignorance uses racial domination to illustrate the relationship between testimonial and hermeneutical injustice,

Applying these concepts [of testimonial and hermeneutical injustice] to racial domination, we could say that white ignorance is achieved and perpetuated through both varieties working in tandem: a general scepticism about non-white cognition and an exclusion from accepted discourse of non-white categories and frameworks of analysis. Thus, a double handicap will result—people of color will be denied credibility and the alternative viewpoints that could be developed from taking their perspective seriously will be rejected (Mills, p.222).

In addition to emphasizing that the two types of epistemic injustice are intimately connected, the causal nature of the relation suggests systemic instances of testimonial injustice are reproduced as hermeneutical injustice. In other words, the harm of testimonial injustice is recapitulated in that the speaker is automatically hermeneutically marginalized. Similarly, Medina argues that conditions that produce and maintain ‘active ignorance’ reveal that hermeneutical and testimonial justice are inextricable from each other. This is the case as the conditions that shape individuals’ capacities for interpretation and understanding, also shape their capacity to properly assign levels of credibility and epistemic authority. Thus, Medina concludes, “there cannot be testimonial justice without hermeneutical justice” (Medina, p.26).

V. Blameworthy epistemic negligence

In this section I argue that Fricker’s focus on transactional identity bias as the source of harm allows for a separation of blame and wrongdoing via her account of innocent epistemic negligence. Although the concept reflects a common

intuition considering the difficulty of tracking the effects of epistemic injustice, I argue it leads to the displacement of responsibility to engage in epistemic labor, and risks obscuring significant harms. The displacement of a supposedly shared obligation of equal epistemic labor allows for certain agents (with privileged epistemic standing) to abdicate responsibility in terms of the limits of their discourse in a way that disadvantaged agents cannot afford to do.

Gaile Pohlhaus distinguishes between a knower's *situatedness* and her *interdependence* as two ways in which the sociality of a knower is epistemically significant (Pohlhaus). According to this account, a tension emerges between a knower that is situated "insofar as the knower's social position draws her attention to particular aspects of the world" and the interdependent knower that makes sense of the world via shared epistemic resources. While this tension drives the knower to expand her knowledge, Pohlhaus argues it also serves as the source of a kind of epistemic injustice overlooked by Fricker's account: *willful hermeneutical ignorance* (Pohlhaus, p716). Willful hermeneutical ignorance describes the injustice that results when knowers who are at the margins of social power take on the epistemic labor to resist domination, or ensure an equal burden of epistemic labor. This task is taken on as a community by producing epistemic resources to account for their experiences while dominantly situated knowers ignore the ways in which their subjectivity is interdependent with the marginalized knowers and "continue to misunderstand and misinterpret the

world” [8 p716]. Additionally, because epistemic resources are developed collectively, and (importantly) interdependently, the expectation, or the ideal in this situation is that we (equally as knowers) need one another in order to make use of them. Because producing knowledge is a shared labor, a refusal to develop or acknowledge epistemic resources contributes to epistemic injustice (mainly hermeneutical injustice) in that it rests the burden solely on a subset of knowers and “maintains ignorance about whole parts of the world” (Pohlhaus).

Pohlhaus’s dialectical tension lends support to the possibility that conceiving epistemic negligence as innocent and unavoidable risks an instance in which a speaker is taken advantage of by the hearer’s reluctance to engage this intersubjective and interdependent position in assessing the speaker’s credibility. The concept of innocent negligence obscures the relevance of hermeneutical injustice at the level of an individual transaction. This harm is described as a distinctly *epistemic* kind of exploitation.

Another contribution to our concept of epistemic labor entails understanding how strategic refusals to not understand are enabled by *derivatization* as an aspect of credibility downgrading. This, in simple terms, refers to the ways in which one’s credibility is made derivative, or secondary, to the commitments and views of the hearer. Pohlhaus presents a case of epistemic exploitation that accounts for *selective* downgrading of an individual’s credibility. Although Fricker acknowledges that a hearer may reasonably be attuned only to

that which interests him, Pohlhaus elevates the intricacies at play when a speaker offers their testimony. Particularly, derivatization does not consist of downgrading everything that the speaker offers as testimony but the hearer, rather, selectively chooses which claims to affirm or deny merely on the basis of “how well they confirm to the hearer’s existing doxastic commitments” (Congdon, p10)(Pohlhaus). In this way the speaker is harmed to the extent that their subjectivity is made derivative of the hearer’s experiences. The emphasis here is the work employed in maintaining one’s ignorance regardless of being offered appropriate epistemic resources as evidence. Importantly, refusal to engage in epistemic labor in this instance requires the hearer to actively construct a narrative “on which dismissing these resources without considering them is reasonable” (Pohlhaus). While derivatization in this example is portrayed at the individual level, the point that an individual does not merely fail to uptake the appropriate resources, but also positively constructs alternative narratives that shape our collective epistemic resources has implications for understanding hermeneutical injustice beyond the individual transaction. Additionally, derivatization involves alienating the speaker to the extent that she is only able to make her experiences intelligible on another’s terms.

Finally, the account developed by Nora Berenstain draws our attention to instances in which privileged individuals fail to recognize the work that marginalized persons undertake in educating them about their lived experiences.

Berenstain advances the claim that such unrecognized, uncompensated, and coerced epistemic labor is what constitutes epistemic exploitation. In characterizing this labor, she explains that a primary challenge for marginalized individuals offering their testimony is default skepticism marked by a privileged individual's ability to set the terms of the debate. Key to this account of epistemic labor is that the privileged person wrongly positions themselves as an epistemic peer with the marginalized person in order to pose skepticism as a substantive objection (Berenstain). Berenstain brings our attention to disagreements in a debate setting. She draws from debate norms to show how different responses are expected when faced with a substantive objection compared to an objection based on misunderstanding. She explains that when we are interacting in such debate "an objection that is based on a misunderstanding does not call for a substantive response", and instead of burdening the speaker "with the task of responding to such an objection, we recognize that it is the job of the confused objector (hearer) to do the work" necessary to understand the speaker's account and recognize how their objection was misguided (Berenstain, p.7). Ultimately, the key feature is the disproportionate labor; the burden of proof rests on the marginalized speaker to ensure the transaction's shared understanding. Similar to our last account of epistemic labor, Berenstain's explanation illustrates critical aspects of epistemic injustice at the transactional level. However, by pointing to the intricacies of this labor we may better recognize injustice that extends beyond

that which is motivated by identity prejudice in the production and sharing of epistemic resources the structural level.

Similar to willful hermeneutic ignorance, a final refusal to engage in epistemic labor is exemplified through Medina's contextualist approach. He calls attention to "active ignorance" as *epistemic laziness*, that is produced and sustained by epistemic habits that protect established cultural expectations. The effect of active ignorance is that a group becomes "relatively blind and deaf to those things that seem to defy those expectations" and such cultural expectations produce a "strong form of epistemic laziness that blocks evidentiary explorations" (Medina, p.26). This active ignorance, characterized by a lack of "motivation and intellectual curiosity to probe the evidence more fully", Medina claims, constitutes an epistemic obstacle in the pursuit of knowledge that leads to epistemic injustice.

Epistemic labor is difficult to engage in even if one is aware of its primacy for epistemic justice. Consequently, it is difficult to track at a systemic level. While we, as individuals, may only be able to remind individuals to act in certain ways by taking up certain virtues, systems and institutions have an obligation to ensure equal distribution of epistemic labor in order to ensure an epistemically just system. I identify two ways that this can be applied to the healthcare system as a social institution. First, it assessing epistemic justice in the planning stages

concerns setting research agendas that determine the kinds of illnesses and needs should be prioritized for the production of epistemic resources or funding pilot projects. Second, the way the healthcare system sets up epistemic labor, such as the training of health professionals, support given to patients to better navigate their care, and efforts to establish a system of feedback, is especially important considering the anticipation of significant differences in epistemic standing. The implications of equal distribution of epistemic labor for clinical practice includes disclosure requirements in informed consent, diagnosis, and redefining certain illnesses. Recent work by various theorists specifically focus on evaluations of well-being for stigmatized patients, including those suffering from mental illness and chronic pain.

VI. Epistemic labor accountability: a framework for ethical analysis

Neglecting the proper attribution of epistemic authority in the production and sharing of epistemic resources risks perpetuating insidious harms. I suggest the concept of *innocent epistemic negligence* excuses such harms. The intuition of innocent epistemic negligence distorts the normative evaluation of instances in which one's motives to engage or not in epistemic labor result in epistemic injustice. Thus, a method that facilitates tracking the burden of epistemic labor is necessary.

The previous sections show both that the risk for bias exists pervasively not only at the levels of individual interactions and institutional decision making, but also that epistemic labor accounts for the effects of bias in a context in which an instance of testimonial injustice necessarily involves hermeneutical injustice. Thus, a method that tracks our efforts to counter a variety of biases threatening an instance of epistemic injustice should strive to keep individuals accountable for engaging in epistemic labor that results in a just evaluation of credibility.

I propose epistemic labor accountability as a framework to evaluate deliberations for epistemic injustice. This framework entails a commitment to transparency of the biases, and accountability to engage in the appropriate epistemic labor to manage it. Additionally, epistemic labor accountability can serve as a reminder of a consciousness shift, resulting from the development of the terminology of epistemic injustice in addition to its specific application to the healthcare setting. Making this shift known also serves to counter inclinations that seek comfort in the idea of a blameless, and innocent, epistemic negligence. This works both as a way to focus on the work of epistemic justice, but also to ensure the most is done to prevent injustice, to ensure an equal burden of epistemic labor.

As a framework for bioethical analysis, epistemic labor accountability seeks to ensure an epistemically just health system. While the primary locus for this

work is in the epistemic labor that healthcare providers take on to ensure epistemically just treatment of their patients, a significant component of this framework is to evaluate the ways in which equal epistemic labor is tracked and enforced at the system level. Thus, instead of providing an account of various ways health personnel can be trained to better check their cognitive biases, I offer examples of how this framework can guide systems to prevent unequal burdens of epistemic labor.

In particular, it aims to ensure that: biases are transparent in the presentation and assessment of evidence; implicit values are made explicit in the deliberation of reasons; benefits from institutional or individual commitments are identified, the recognition of gaps in epistemic resources that are operative in a discussion is prioritized; prevents perpetuating existing historical epistemic injustice by evaluating long-term effects of a decision on the production and distribution of epistemic resources. Additionally, this framework for bioethical analysis has implications for shared decision making processes, integrating consideration of ethical issues within a context of conflicting values, and approaches to procedural fairness, in terms of the kinds of evidence that are relevant for evaluations of medical evidence (Persad).

VII. Case study: Disclosure requirements in the clinical encounter:

Within the discussions of a clinical encounter, valid informed consent requires disclosure of the nature of the medical procedure, the risks, benefits, and potential alternatives that a reasonable patient would find necessary. Importantly, judgments vacillating between giving decisional authority to the patient while maintaining the authority of the physician are rooted in the uncertainty of medical practice. In order to determine the requirements for disclosure for valid informed consent the “reasonable patient standard” and similarly “reasonable subject standard” are used in the clinical and research contexts respectively (Katz). One challenge with the use of standards for such a complex dialogue is the ambiguity surrounding the shared decision making process. While it is unclear whether using the reasonable patient standard succeeds in ensuring a more just interaction or serves as another method of mitigating liability, evaluating its use with a framework of epistemic labor accountability clarifies the obligations to avoid epistemic injustice. In particular, if we construe the reasonable patient standard relative to the ability of a particular health system, hospital, or clinic to learn and capture a broader spectrum of their patients’ experiences and needs, we might be better equipped to foster the necessary spaces and interactions suited for an epistemically just discussions between patient and doctor.

The case of two patients with similar symptoms of coronary artery disease exemplifies how evaluating for epistemic labor accountability can serve to ensure a more just deliberation. When the first patient, a very well informed executive, is advised stent implantation as treatment that entails inserting a device to prevent blockages in one's artery, he consulted his phone, asked for alternatives and sought the advice of several specialists. The cardiologist he sought out researched comparisons of stent implantation with more alternative treatments, and interestingly, concluded that stents for stable patients such as the executive, did not prevent a single heart attacks nor did it extend the lives of patients. The second patient did not question his doctor, and accepted the stent implantation for his symptoms although these were due to a previous lymphoma treatment. The second patient died because he could not go off the medication for his stent implantation and as a result did not survive waiting for an operation (these cases were presented in a report on medical evidence and treatment decisions) [Epstein]. These cases show the difficulty of discussing risks of treatment, and especially highlight hermeneutical injustices in the diagnosing cardiologist's limited knowledge of the risk of stent complications as well as the second patient's lack of epistemic resources when compared to the executive to ask the right questions in the clinical encounter. In addition, this lack of epistemic resources is evident in the credibility excess the second patient attributes to his diagnosis. While efforts for patient decision tools and shared decision making aim for a more just interaction, assessing epistemic labor accountability places

obligations on the healthcare system to provide patients with the epistemic resources necessary to hold their doctor's accountable for relevant biases.

So, we should help patients not only make decisions on their own, once the doctor has given them data, but to hold doctors epistemically accountable for the values that go into the entire decision making processes. Importantly, more tangible obstacles to epistemic labor accountability include biases that result from factors such as urgency stemming from limited time per patient visits and heavy pharmaceutical investment in certain treatments. In this way, the epistemic labor accountability seeks more intentional interactions, curtailing credibility excess and deficits, and ensuring that healthcare system has invested itself into determining the kind of information that patients would need to have in order to be able to do this kind of work.

VIII. Conclusion

Fricker's account of epistemic injustice provides a useful starting point to discern the harms that result when a speaker's credibility is wrongly downgraded. However, in so far as it considers instances of wrongful credibility downgrading either *unjust* if it were caused by some identity-prejudice, or else instances of innocent epistemic negligence, it overlooks crucial aspects of the ways in which knowers relate to each other. Additionally, the concept of innocent epistemic negligence seems to obscure a pervasive risk of bias

embedded in our epistemic practices, when we trace the harm of injustice from the transactional to an institutional level. This leads to a displacement of responsibility for the shared project of attaining an epistemically just society. By adopting a comprehensive understanding of the way bias operates in individual judgments and decision making processes, we gain an understanding of underlying processes required to ensure an epistemically just transaction, and of the extent to which our ability to get things right about the world depends on our capacity for epistemic justice. A lens of epistemic labor accountability helps guide our efforts in appropriately assessing epistemic merit and attributing epistemic authority, including a commitment to be transparent about biases and keeping other individuals and institutions accountable. Finally, the framework reveals distinct obligations for assessment at the institutional or systemic level. Although epistemic labor accountability would help to ensure public trust in public health and clinical practices, it is important to recognize that instances of epistemic injustice can have life and death consequences.

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